



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA CRIMINAL JUSTICE INSTITUTE (ICJI)
TITLE: CONFLICT OF INTERESTS
CASE ID: 2017-10-0225
DATE: June 27, 2018

Inspector General Staff Attorneys Matt Savage and Kelly Elliott, after an investigation by Special Agent Mark Mitchell, report as follows:

The Indiana General Assembly charged the Office of the Indiana Inspector General (OIG) with addressing fraud, waste, abuse, and wrongdoing in executive branch agencies of state government. IC 4-2-7-2(b). The OIG also investigates allegations of criminal activity and Code of Ethics violations within state government. IC 4-2-7-3.

On October 12, 2017, the OIG received a hotline complaint that alleged an Indiana Criminal Justice Institute (ICJI) employee (the Employee) may have violated the State Code of Ethics by participating in ICJI's decisions to contract with an outside organization of which the Employee was a board member. The hotline implied that the outside organization (the Contractor) received a state contract to provide services to ICJI due to the Employee's association with the Contractor. In addition, the hotline alleged that the Contractor's contact with executive branch agencies was in violation of statutes that govern executive branch lobbying. Special Agent Mark Mitchell investigated the matter for possible conflicts of interests under IC 4-2-6-9 and for possible executive branch lobbying violations pursuant to IC 4-2-7-3.

Special Agent Mitchell reviewed the Contractor's records, ICJI records, and contracts between the Contractor and state executive branch agencies, including ICJI. In addition, Special Agent Mitchell interviewed the Employee and other ICJI personnel.

Special Agent Mitchell learned that the Employee is involved in awarding and administering ICJI contracts with organizations such as the Contractor. The Employee reviews grant applications for completeness, ensures that contractors and appropriate state agencies sign contracts, verifies that contractors perform required services, and directs payment to contractors. The Employee does not make decisions to award contracts. Although the Employee participates in discussions about who ICJI contracts with, ICJI's executive director makes these decisions after he receives a recommendation from the Employee's supervisor.

The Employee acknowledged that he has been a member of the Contractor's organization for a number of years. The Employee pays annually for membership dues. The Employee stated that he is not active in the organization; however, he usually attends the Contractor's awards banquet. The Employee has never served as an officer, a director, a trustee, a partner, or an employee for the Contractor.

The Contractor's last contract with ICJI expired in 2014, and the Contractor has not received ICJI funding since that time. Special Agent Mitchell found no evidence that the Contractor has sought a contract or funds through ICJI since 2014.

IC 4-2-6-9 was amended in 2015 to include "member" as a specific affiliation with a business organization that can cause a state employee to have a conflict of interests. Prior to this amendment, the rule did not prohibit a state employee from participating in decisions or votes in which a business organization in which the employee was a member had a financial interest. As a result, the OIG's investigation found no evidence that the Employee violated IC 4-2-6-9 as it existed prior to the 2015 amendment. In addition, the OIG's investigation found no evidence that the Employee has participated in matters related to decisions or votes in which the Contractor has a financial interest after the 2015 amendment.

IC 4-2-6-9 (b) requires a state employee who identifies a potential conflict of interests to notify his or her appointing authority and ethics officer in writing and either 1) seek a formal advisory opinion from the State Ethics Commission (Commission) or 2) file a disclosure with the OIG within seven days after the conduct that gives rise to the conflict of interests. Due to the Employee's involvement in contracting on behalf of ICJI, it is possible that he could participate in a matter related to a decision or vote in which the Contractor has a financial interest in the future; however, the Contractor has not contracted with ICJI since 2014. Due to the Employee's membership with the Contractor and his involvement in contracts with ICJI, the Employee may have a potential conflict of interests under this rule. As a result and out of an abundance of caution, we recommend that the Employee comply with IC 4-2-6-9 (b) as soon as possible by notifying his appointing authority and ethics officer of the potential conflict of interests in writing and either request a formal advisory opinion from the Commission or file a disclosure statement with our office.

Special Agent Mitchell also inquired with ICJI and the Indiana Department of Administration (IDOA) regarding allegations that the Contractor engaged in executive branch lobbying violations. Pursuant to 25 IAC 6, individuals who engage in executive branch lobbying must register as an executive branch lobbyist with IDOA. Special Agent Mitchell reviewed the Contractor's filings with the Secretary of State and found that they have had four officers and one registered agent since 2014. Special Agent Mitchell also found that the Contractor has a State Legislative Information Network Committee (LINC) Representative. IDOA confirmed that none of the officers, registered agent, or State LINC Representative have ever registered with IDOA as an executive branch lobbyist for the Contractor; however, ICJI provided that the Contractor is not

approaching them about any funding at this time. The Contractor's last contract with ICJI expired in 2014, and they have not received ICJI funding since that time.

Special Agent Mitchell also found no evidence that the Contractor engaged in executive branch lobbying with ICJI in violation of 25 IAC 6. Special Agent Mitchell found that the Contractor's previous communications with ICJI were related to grant awards and subsequent contracts. Communications related to applying for grants and negotiating terms or conditions of grants are exempt from the executive branch lobbying registration requirement. The Contractor is registered with the Indiana Lobbying Registration Commission as a legislative branch lobbyist.

The OIG's investigation found insufficient evidence that the Employee violated IC 4-2-6-9. The OIG also found no evidence that the Contractor violated 25 IAC 6 as it relates to executive branch lobbying with ICJI. For these reasons, the OIG is closing this case for insufficient cause. Should additional information be brought forward, the OIG may reexamine this initial evaluation.

Dated: June 27, 2018

APPROVED BY:

A handwritten signature in black ink that reads "Lori Torres". The signature is written in a cursive, flowing style.

Lori Torres, Inspector General